

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Mark L. Weiss

Serial No.: 10/647,361

Group No.: 1632

Filed: 08/25/2003

Examiner: Thaian Ton

Entitled: Cultures, Products and Methods Using Stem Cells

**DECLARATION OF DR. KATHY MITCHELL**

**EFS WEB-FILED**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

CONSIDERED 12/22/08 /TNT/

I, Dr. Kathy Mitchell, state as follows:

1. My present position is Senior Scientist, Message Pharmaceuticals, 1448 S. Rolling Road Baltimore, MD 21227. Message Pharmaceuticals is a licensee of the above referenced patent application.

2. I am an inventor of the above referenced patent application.

3. It is my understanding that Examiner has rejected the claims as being non-enabled, lacking an adequate written description, and as anticipated by Purchio et al., U.S. Pat. No. 5,919,702. In the telephonic interview on October 28, 2008, the Examiner suggested presenting data that further described the claimed cell population and that demonstrated how the cell population obtained by the claimed process differ from the prechondrocytes of Purchio et al. and the Wharton's Jelly extract used by Purchio et al. In particular, it is my understanding that it is the Examiner's position that the current claims encompass a crude Wharton's Jelly preparation.

4. The cell population obtained by the process described in the claims: (a) enzymatically dispersing umbilical cord matrix to provide a fraction of cells comprising umbilical cord matrix stem cells; (b) exposing the fraction with umbilical cord matrix stem cells to conditions suitable for stem cell proliferation; (c) passaging said fraction with umbilical cord matrix stem cells to remove non-adherent cells and select a fraction of cells enriched for umbilical cord matrix stem